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Via Electronic Filing

Honorable Noel L. Hillman
United States District Judge
Mitchell H. Cohen Federal Courthouse
One John F. Gerry Plaza, Fourth & Cooper Streets
Camden, NJ 08101

**Re: United States v. Michael Kwasnik and William Kwasnik
Crim. No. 17-52 (NLH)**

Dear Judge Hillman:

Please accept this letter brief in support of William Kwasnik's Motion for Recusal. Counsel for Michael Kwasnik accurately recounts the facts and circumstances that give rise to the need for reassignment of this matter. William Kwasnik joins in the brief filed by counsel for Defendant Michael Kwasnik and offers this additional limited discussion.

It is worth noting the context and method by which the information that arose in the *Westdale* matter, which the Court recommended for referral to the United States Attorney's Office, came before this Court. The transcript of the March 17, 2010, matter reveals that the Court completed its ruling as to the summary judgment proceeding by page 23 of the transcript. The remaining 100 pages of the transcript are devoted to William Hughes' presentation, in his capacity as trustee, of the status of certain life insurance policies. *See* Government Brief at Ex. "D." Prior to beginning his presentation, Mr. Hughes asked the Court to temporarily seal the record. Counsel for Michael Kwasnik, Hercules Pappas, Esq., had been present in Court to observe the proceedings, but was directed to leave, despite the fact that much of Mr. Hughes' presentation concerned Michael Kwasnik. After Mr. Hughes' presentation, the Court concluded that there was "substantial evidence of fraud" and directed Mr. Hughes to advise the Court within twenty-four hours whether he would be referring the matter to the United States Attorney's Office. *Id.* at 81. The Court clearly formed an initial opinion regarding culpability. Given the nature of the proceeding, the Court reached this conclusion without hearing meaningful challenge to the presentation, opinions, and the significance of the exhibits Mr. Hughes had presented. William Kwasnik draws attention to the circumstances of the presentation for the sole purpose of highlighting the isolated manner by which the Court formed its initial impressions regarding alleged criminality.

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While the Court's comments chiefly concerned Michael Kwasnik, William Kwasnik was also mentioned in the March 17, 2010, proceeding, *see e.g. id.* at 57, 60, and the fact of the matter is that William Kwasnik is currently a co-defendant in the same indictment before your Honor. Accordingly, William Kwasnik, supports the Motion for Recusal.

Additionally, the Government's unusual position in response to the Motion for Recusal must be noted. The Government first claims that recusal is not warranted, but quickly concedes that an appellate court could very well come to a different conclusion. Given this possibility, the Government defers to the Court to make a determination of whether recusal is warranted. The undersigned submits that the Government's tepid opposition to the Motion for Recusal is revealing.

For the reasons set forth herein, and in further reliance upon the submission made by counsel for Michael Kwasnik, William Kwasnik respectfully requests that the Motion for Recusal be granted at this time.

Respectfully submitted,

/s/ Daniella Gordon

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William Kwasnik*

DG/ms

Cc: Richard Klineburger, Esq. (all *via* electronic mail and electronic filing)
Sarah Wolfe, Esq., A.U.S.A.